

ASSEMBLY BILL

No. 941

Introduced by Assembly Member Wood

February 26, 2015

An act to amend Section 1206 of the Health and Safety Code, relating to clinics.

LEGISLATIVE COUNSEL'S DIGEST

AB 941, as introduced, Wood. Clinics: licensure and regulation: exemption.

Existing law provides for the regulation and licensure of clinics, as defined, by the State Department of Public Health. Under existing law, specified types of clinics are exempted from these licensing provisions, including a clinic that is conducted, maintained, or operated by a federally recognized Indian tribe and is located on land recognized as tribal land by the federal government.

This bill would expand that exemption to also include a federally recognized Indian tribe under a contract with the United States pursuant to federal law, without regard to the location of the clinic.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1206 of the Health and Safety Code is
- 2 amended to read:
- 3 1206. This chapter does not apply to the following:
- 4 (a) Except with respect to the option provided with regard to
- 5 surgical clinics in paragraph (1) of subdivision (b) of Section 1204

1 and, further, with respect to specialty clinics specified in paragraph
2 (2) of subdivision (b) of Section 1204, any place or establishment
3 owned or leased and operated as a clinic or office by one or more
4 licensed health care practitioners and used as an office for the
5 practice of their profession, within the scope of their license,
6 regardless of the name used publicly to identify the place or
7 establishment.

8 (b) Any clinic directly conducted, maintained, or operated by
9 the United States or by any of its departments, officers, or agencies,
10 and any primary care clinic specified in subdivision (a) of Section
11 1204 that is directly conducted, maintained, or operated by this
12 state or by any of its political subdivisions or districts, or by any
13 city. Nothing in this subdivision precludes the state department
14 from adopting regulations that utilize clinic licensing standards as
15 eligibility criteria for participation in programs funded wholly or
16 partially under Title XVIII or XIX of the federal Social Security
17 Act.

18 (c) (1) Any clinic conducted, maintained, or operated by a
19 federally recognized Indian tribe or tribal organization, as defined
20 in Section 450 or ~~1601~~ 1603 of Title 25 of the United States Code,
21 that is located on land recognized as tribal land by the federal
22 government.

23 (2) *Any clinic conducted, maintained, or operated by a federally*
24 *recognized Indian tribe or tribal organization, as defined in Section*
25 *450 or 1603 of Title 25 of the United States Code, under a contract*
26 *with the United States pursuant to the Indian Self-Determination*
27 *and Education Assistance Act (Public Law 93-638), regardless of*
28 *the location of the clinic.*

29 (d) Clinics conducted, operated, or maintained as outpatient
30 departments of hospitals.

31 (e) Any facility licensed as a health facility under Chapter 2
32 (commencing with Section 1250).

33 (f) Any freestanding clinical or pathological laboratory licensed
34 under Chapter 3 (commencing with Section 1200) of Division 2
35 of the Business and Professions Code.

36 (g) A clinic operated by, or affiliated with, any institution of
37 learning that teaches a recognized healing art and is approved by
38 the state board or commission vested with responsibility for
39 regulation of the practice of that healing art.

1 (h) A clinic that is operated by a primary care community or
2 free clinic and that is operated on separate premises from the
3 licensed clinic and is only open for limited services of no more
4 than 20 hours a week. An intermittent clinic as described in this
5 subdivision shall, however, meet all other requirements of law,
6 including administrative regulations and requirements, pertaining
7 to fire and life safety.

8 (i) The offices of physicians in group practice who provide a
9 preponderance of their services to members of a comprehensive
10 group practice prepayment health care service plan subject to
11 Chapter 2.2 (commencing with Section 1340).

12 (j) Student health centers operated by public institutions of
13 higher education.

14 (k) Nonprofit speech and hearing centers, as defined in Section
15 1201.5. Any nonprofit speech and hearing clinic desiring an
16 exemption under this subdivision shall make application therefor
17 to the director, who shall grant the exemption to any facility
18 meeting the criteria of Section 1201.5. Notwithstanding the
19 licensure exemption contained in this subdivision, a nonprofit
20 speech and hearing center shall be deemed to be an organized
21 outpatient clinic for purposes of qualifying for reimbursement as
22 a rehabilitation center under the Medi-Cal Act (Chapter 7
23 (commencing with Section 14000) of Part 3 of Division 9 of the
24 Welfare and Institutions Code).

25 (l) A clinic operated by a nonprofit corporation exempt from
26 federal income taxation under paragraph (3) of subsection (c) of
27 Section 501 of the Internal Revenue Code of 1954, as amended,
28 or a statutory successor thereof, that conducts medical research
29 and health education and provides health care to its patients through
30 a group of 40 or more physicians and surgeons, who are
31 independent contractors representing not less than 10
32 board-certified specialties, and not less than two-thirds of whom
33 practice on a full-time basis at the clinic.

34 (m) Any clinic, limited to in vivo diagnostic services by
35 magnetic resonance imaging functions or radiological services
36 under the direct and immediate supervision of a physician and
37 surgeon who is licensed to practice in California. This shall not
38 be construed to permit cardiac catheterization or any treatment
39 modality in these clinics.

(n) A clinic operated by an employer or jointly by two or more employers for their employees only, or by a group of employees, or jointly by employees and employers, without profit to the operators thereof or to any other person, for the prevention and treatment of accidental injuries to, and the care of the health of, the employees comprising the group.

(o) A community mental health center, as defined in Section 5601.5 of the Welfare and Institutions Code.

(p) (1) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, as an entity organized and operated exclusively for scientific and charitable purposes and that satisfied all of the following requirements on or before January 1, 2005:

(A) Commenced conducting medical research on or before January 1, 1982, and continues to conduct medical research.

(B) Conducted research in, among other areas, prostatic cancer, cardiovascular disease, electronic neural prosthetic devices, biological effects and medical uses of lasers, and human magnetic resonance imaging and spectroscopy.

(C) Sponsored publication of at least 200 medical research articles in peer-reviewed publications.

(D) Received grants and contracts from the National Institutes of Health.

(E) Held and licensed patents on medical technology.

(F) Received charitable contributions and bequests totaling at least five million dollars (\$5,000,000).

(G) Provides health care services to patients only:

(i) In conjunction with research being conducted on procedures or applications not approved or only partially approved for payment (I) under the Medicare program pursuant to Section 1359y(a)(1)(A) of Title 42 of the United States Code, or (II) by a health care service plan registered under Chapter 2.2 (commencing with Section 1340), or a disability insurer regulated under Chapter 1 (commencing with Section 10110) of Part 2 of Division 2 of the Insurance Code; provided that services may be provided by the clinic for an additional period of up to three years following the approvals, but only to the extent necessary to maintain clinical expertise in the procedure or application for purposes of actively providing training

1 in the procedure or application for physicians and surgeons
2 unrelated to the clinic.

3 (ii) Through physicians and surgeons who, in the aggregate,
4 devote no more than 30 percent of their professional time for the
5 entity operating the clinic, on an annual basis, to direct patient care
6 activities for which charges for professional services are paid.

7 (H) Makes available to the public the general results of its
8 research activities on at least an annual basis, subject to good faith
9 protection of proprietary rights in its intellectual property.

10 (I) Is a freestanding clinic, whose operations under this
11 subdivision are not conducted in conjunction with any affiliated
12 or associated health clinic or facility defined under this division,
13 except a clinic exempt from licensure under subdivision (m). For
14 purposes of this subparagraph, a freestanding clinic is defined as
15 “affiliated” only if it directly, or indirectly through one or more
16 intermediaries, controls, or is controlled by, or is under common
17 control with, a clinic or health facility defined under this division,
18 except a clinic exempt from licensure under subdivision (m). For
19 purposes of this subparagraph, a freestanding clinic is defined as
20 “associated” only if more than 20 percent of the directors or trustees
21 of the clinic are also the directors or trustees of any individual
22 clinic or health facility defined under this division, except a clinic
23 exempt from licensure under subdivision (m). Any activity by a
24 clinic under this subdivision in connection with an affiliated or
25 associated entity shall fully comply with the requirements of this
26 subdivision. This subparagraph shall not apply to agreements
27 between a clinic and any entity for purposes of coordinating
28 medical research.

29 (2) By January 1, 2007, and every five years thereafter, the
30 Legislature shall receive a report from each clinic meeting the
31 criteria of this subdivision and any other interested party
32 concerning the operation of the clinic’s activities. The report shall
33 include, but not be limited to, an evaluation of how the clinic
34 impacted competition in the relevant health care market, and a
35 detailed description of the clinic’s research results and the level
36 of acceptance by the payer community of the procedures performed
37 at the clinic. The report shall also include a description of
38 procedures performed both in clinics governed by this subdivision
39 and those performed in other settings. The cost of preparing the

- 1 reports shall be borne by the clinics that are required to submit
- 2 them to the Legislature pursuant to this paragraph.

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